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e) communicating information based on the present battery pack conditions and based on the battery pack data to processing circuitry of the portable utilization device; and

f) controlling by said portable utilization device, operational discharge of the battery pack, said controlling comprising [The method of claim 31 wherein the step of controlling comprises] entering a low power mode.

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45) A method of providing operational power to a portable utilization device, said method comprising;

a) coupling a battery pack with an electronic memory system and with processing circuitry of the portable utilization device;

b) incorporating in the electronic memory system, battery pack data related to battery pack characteristics of the battery pack;

c) monitoring present battery pack conditions;

d) retrieving the battery pack data;

e) communicating information based on the present battery pack conditions and based on the battery pack data to processing circuitry of the portable utilization device; and

f) controlling by said portable utilization device, operational discharge of the battery pack, said controlling comprising [The method of claim 31 wherein the step of controlling comprises] deselecting at least one battery of the battery pack.

REMARKS

Claims 1, 16 and 31 presently stand rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1, 2 and 3, respectively of prior U.S. Patent No. 5,619,117 (double patenting). Applicant acknowledges with appreciation the Examiner's statement that claims 2-15, 17-30 and 32-45 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has canceled independent base claims 1, 16 and 31. Applicant has also amended all dependent claims that depended directly from one of the now canceled base claims,

namely, dependent claims 2, 7, 15, 17, 22, 30, 32, 37 and 45, so that each is now in independent form and includes all the limitations of its respective base claim. Each of the unamended claims, namely, each of claims 3-6, 8-14, 18-21, 23-29, 33-36 and 38-44 (attached hereto as Appendix A for the Examiner's convenience), depends from one of the above-amended claims, and therefore now includes all of the limitations of its respective intervening claim and base claim.

Consequently, all of the now-pending claims, namely, claims 2-15, 17-30 and 32-45, have in effect been rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Furthermore, Applicant is submitting herewith as an information disclosure statement a PTO Form 1449 which lists three new references, which were recently brought to the attention of Applicant by a third party. One reference is a U.S. Patent (No. 4,143,417), and the remaining two are non-patent documents, one in English and the other in Japanese. Applicant encloses copies of these three listed references.

With regard to U.S. Patent No. 4,143,417, the third party has directed Applicant's attention to col. 3, line 43 to col. 4, line 18 and col. 6, line 52 et seq. of that patent.

With regard to the non-patent documents, the third party has represented to Applicant that the English language document, namely, "NHK LABORATORIES NOTE" Serial No. 302, allegedly published July 1984, contains the same relevant disclosure as that found in the Japanese language document, namely, "The Institute of Television Engineers Technology Report, Vol. 4, No. 44, allegedly published March 20, 1981. Nevertheless, in an abundance of caution, Applicant obtained a certified English translation of the Japanese language document and is submitting that translation herewith for the Examiner's review. Applicant has reviewed the above two non-patent documents and believes they are cumulative to the Kikuoka et al. (USP

4,377,787) reference already before the Examiner. Applicant notes that it appears the authors of both the English language and Japanese language documents above are named inventors on the Kikuoka et al. reference. Nevertheless, Applicant suggests that the Examiner compare these references to the Kikuoka et al. reference and draw his own conclusion. Applicant encloses herewith a copy of the Kikuoka et al. reference for the Examiner's convenience.

Applicant submits that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned, after reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to this filing.


The Commissioner is hereby authorized to charge any fees associated with the above amendments to the deposit account of McAndrews, Held & Malloy, Ltd., No. 13-0017.

Based on the foregoing, Applicant believes that pending claims 2-15, 17-30 and 32-45 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, Applicant respectfully requests that the Examiner telephone the undersigned at (312) 707-8889.

A Notice of Allowability is courteously solicited.

Date: 9/10/99

Respectfully submitted,



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